1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

by the aid and example of their Kiowa associates with whom they ended their enmity in 1790,[7] the Comanches succeeded in adopting the war patterns of the Plains with complete success. The war ideal permeated male behavior and markedly colored their legal system. Out of this matrix the Comanche brought new and significant legal forms. The society was in a dynamic state of flux; institutions were not sharply drawn, nor were the Comanches generally conscious of the configuration of their own social forms. They lived a hard, fast-moving life in a world of change, in which the individual loomed large as the important social unit.

TRIBAL ORGANIZATION

There was no political unit which could be termed the Comanche tribe. The tribe was no more than a congerie of bands held together as a peace-group by the bonds of a common tongue and culture. There appears to have been no machinery for institutionalized political action on a tribal scale. It is the present belief of the Comanches that Echo Of The Wolf's Howl[8] convened the first tribal council of the Comanches in order to debate the problem of peace with the United States at the time of the proposal of the Medicine Lodge Treaty in 1876. War between the several bands never occurred, although the warriors of the Swift Stingers band joined with the United States Army as scouts in the actions against the other Comanches in the 1870's. They are still thoroughly disliked by all other Comanches.

The population of the Comanche tribe was distributed among a number of autonomous bands, each loosely organized and each centering its activities in a vaguely defined territory within the Comanche country.[9]

The Comanche band, or local group, ranged in size from a single family camping alone, through the small camp of related individuals who formed a composite extended family, up to the large band of several hundred persons.

Clan organization was absent. The kinship principle was weak even within the extended family band.[10] For though groups of relatives tended to

[7] James Mooney, *Calendar History of the Kiowa* (Report, Bureau of American Ethnology, vol. 17, 1898), pp. 162–165.

[8] A phonetic transcription of personal names used in this monograph is given in Appendix C.

[9] Mooney's estimate as to the prehistoric Comanche population is 7,000 for the year 1690. *The Aboriginal Population of America North of Mexico* (Smithsonian Miscellaneous Collections, vol. 80, 1928), p. 13. In 1892 the population was 1,545. (Mooney, *Calendar History*, p. 235).

[10] Comanche kinship usages have been analysed by the author and compared to those of the Shoshone. Cf. E. A. Hoebel, *Comanche and Hɜkandkika Shoshone Relationship Systems* (American Anthropologist, vol. 41, 1939), pp. 440–457.

1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

LEGAL ACTIONS IN ADULTERY AND WIFE-STEALING

CONFLICTS IN MARITAL LAW AND SOCIAL CUSTOM

Though it was illegal for a Comanche wife to desert her husband, to do so was a well established Comanche custom. More than that, custom provided for effective group cooperation in extension of aid to the would-be deserting wife and her absconder. Custom and law worked at cross-purposes. The cause lay in the clash of two opposing fundamental interests which could not be integrated. The result was such "lawless" behavior as Mr. Jerome Frank describes as arising from the "pretend rules" which are so common in human societies, rules which give expression in law to principles mouthed but not wholly believed in.[1]

Before the law Comanche woman was a quasi-chattel; her man was her *baron*. Under the system of contract marriage which prevailed, a girl was bestowed upon a man ofttimes many years her senior and not of her own choosing. According to the ideal pattern she adjusted herself to the arrangement, settling into a smooth and dutiful marital career. It is the expressed belief of the older Indians that such marriages were more successful and lasting than those which were formed of romantic liaison. Unfortunately, one cannot determine the relative percentages of successful marriages for the Comanche. The Comanche law system buttressed this marital arrangement by providing institutionalized instruments for the collection of restituitive damages by any husband whose sexual claim upon his wife was infringed upon by an adulterer or wife-absconder. The husband could mete extreme punishment upon the unfaithful and hapless wife. A marriage had the full protection of the law.

The basic belief that a man's rights in marriage were exclusive (except for the privileges extended to a brother under the anticipatory levirate) and not to be impinged upon unless he had released these rights through recognized divorce, ran into counter currents of custom in the existing notions of romantic marriage (wherein younger couples sought love-mates of their own choosing) and the prevailing behavior of males in the competitive struggle for personal ranking and the attainment of bravery status. The competition for bravery ranking which was institutionalized in coup counting found its opportunity for expression *within* the tribe in the taking of women from their husbands. This threw the wife-taker and the husband into direct conflict. Not raw conflict, however, for as shall be seen, mechanisms for settling the issue without fighting had been developed.

[1] Jerome Frank, *Lawlessness* (Encyclopaedia of the Social Sciences, vol. 10, 1937), p. 227.

2: Lee T-5 (1855-1858) 1957
NO6 Comanche NO6

enlarged, it being considered improbable, I suppose, that I would tear myself away from the partner of my bosom. I was no longer made the center-post at their war dances, but permitted to wear the gayly colored feathers in my hair, and with the warriors, "round about the cauldron stout, to dance right merrily." But I was by no means entirely at liberty, nor did their apprehensions that I would escape, if opportunity occurred, entirely vanish. I was not allowed to leave the village alone, nor to carry arms. My duties were those of an attendant upon the chief. He kept me near him always, whether on buffalo hunts or visits to the neighboring tribes. He frequently made these visits, when they required but one day's ride, with no one accompanying him but myself. At such times he was mounted on a powerful horse, armed with bow and arrow and a musket—a tomahawk hanging from the pommel of his saddle, and a long knife in his belt; while I rode before him on a sluggish mule, entirely unarmed. We never passed the night together alone on one of these excursions. In a thousand little ways it was made evident he did not regard it exactly safe to place himself within my power.

The most thrilling incident I witnessed during my sojourn with the tribe of the Rolling Thunder was an Indian duel. Among his warriors were two young men, both proud and spirited, between whom there had long existed a deadly animosity. The cause of their quarrel I could never fully understand, further than it appeared there was a young squaw in the case. Time and time again their differences had been brought before the council without any adjustment being satisfactorily effected. At length, when negotiation had become useless, it was determined to settle the matter forever in a most bloody manner.

It was a pleasant morning towards the close of autumn,

2: Lee T-5 (1855-1858) 1957
NO6 Comanche NO6

578 when the whole tribe, save the squaws and papooses, assembled on a level piece of ground a mile from the village. Here they formed a large ring, into which walked the Rolling Thunder and Han-na-nos-ka-a, the prophet. The latter pronounced a long discourse, setting forth, as nearly as my imperfect knowledge of the language enabled me to comprehend, the original cause of the quarrel, a detailed account of its progress, the inability of the council to agree upon a satisfactory arrangement, and that, finally, it had been referred to the just decision of the Great Spirit, into whose presence their implacable brethren were now about to appear.

Having concluded, the brothers of the young warriors conducted them into the ring. One of them was, perhaps, twenty-two or twenty-three years of age, the other four or five years older. The younger was somewhat the largest, though both were remarkably athletic and powerful. When they reached the center of the ring, meeting from opposite [234] directions, their left arms, as far up as the elbow, were firmly lashed together with stout, thick cords of buffalo hide. They were bound so thoroughly that the possibility of breaking away from each other was utterly beyond question.

Into the right hand of each was then placed a hunting [412] knife, having a heavy buckhorn handle and a blade about nine inches long, evidently prepared for the occasion by being brought to a keen edge on both sides. The brothers then withdrew some twenty feet from the combatants, drawing from their belts similar knives, when the signal was given and the fight began. After that there was no call of "time"—no retreating to the "corner"—no planting the left heavily on the "mug"—they "toed the scratch" but once, and ended the combat in a single "round."

2: Lee T-5 (1855-1858) 1957
NO6 Comanche NO6

Visit to the Ruins

The battle lasted but a moment, the bright blades, in 578
the meantime, glittering and glimmering in the sun, and the contestants instantly presenting the appearance of men suddenly overtaken by a storm of blood. At length, a mortal thrust by one was followed by a fierce blow from the other, gashing through the side of the neck, from which the purple tide of life spouted up in a high wide arch, when both fell lifeless to the ground.

Had either survived the conflict, according to their code of honor, it would have been the duty of his brother to have put him immediately to death. Throughout the exciting scene not the slightest partiality was exhibited. The faintest shadow of emotion could not be detected upon the countenances of the savage stoics as they gazed upon it. They were stretched side by side on the spot where they had fallen—buried in the customary manner—and left to rest together in peace, at last.

The week succeeding this tragedy, a party of ten or 484
twelve, including the Rolling Thunder and myself, started 224
on a long journey, its object being to ascertain whether the buffalo droves had changed their feeding grounds, before the warriors set out on their annual hunt. In the course of this trip we crossed a valley, the singular appearance of which has very frequently since been the subject of study and reflection.

On the summit of many of the mountains we passed, 172
were broad, level tablelands, destitute of a solitary tree, and covered with rank grass. Upon every one of these elevated plains was to be seen a mound, in most instances in the form of a half-circle, resembling the overgrown ruins of an ancient fortress, and plainly the work of human hands.

Finally we descended into a ravine, walled on either 133
side by rugged cliffs which led us a day's ride to the south-

7: Richardson D-4 (no date) 1929
NO6 Comanche NO6

342 The Comanche tipi represented a wonderful combination of utility and portability. A dozen or more slender poles were tied together at the top and set up so as to form the frame-work of an irregular cone of such diameter as the material at hand and the size of the family made practicable. This framework was covered with buffalo hides, flesh side out, and offered excellent shelter, while an opening and flap at the top assured ventilation. The flap could always be adjusted so that the opening was protected from the prevailing wind on the same principle that ventilators on our modern buildings are constructed so as to shift with the wind. Recently the writer spent a hot August evening in a Comanche tipi constructed along traditional lines except that canvas rather buffalo hides served for covering. There was no smoke and the place was comfortably cool, notwithstanding the small fire in the center. Close examination re-
[354] vealed the fact that the covering was not drawn completely to the ground, but that instead an air space of several inches was left all around. This, together with the opening at the top, made for perfect ventilation. Had the night been cold, the canvas could have been drawn completely to the ground, thus sacrificing ventilation to comfort.

648 The Comanches were a nomadic people and as late as 1850 a
619 wandering band might be found in the valley of the Platte or in
[361] the plains of Durango, fifteen hundred miles further south. There was not a single Comanche tribe, but rather several distinct tribes, having but few relations the one with the other. The Penatekas, were the southernmost band or tribe and are most often heard of in the history of Texas. Occasionally they got in touch with the northern bands when the latter came down to the Brazos or Clear Fork to spend the winter or when some of the young men of the different bands, joined perhaps by their allies the Kiowas, put out for the Mexican border for a joint raid. Sometimes the Penatekas
[378] were even in a state of war with their northern kinsmen. Naturally when the chiefs of a given band made a treaty it was binding only on their immediate followers. Hence, their kinsmen who lived afar off were likely to ignore it even if they should hear of it. Furthermore, the nomadic habits of the Indians and the resultant divisions and subdivisions of the bands into small parties away from responsible leaders made it impossible for the chiefs to control their

7: Richardson D-4 (no date) 1929
NO6 Comanche NO6

622 became demoralized through contact with the white race and the desperate struggle for existence this brought about, the chiefs exercised more authority.[15] Cases of the formal arraignment and
622 trial of a warrior or chief, were exceedingly rare, if such ever
627 occurred; for the writer has never discovered a well authenticated record of such a procedure. A chief or leading brave might lash
● [578] a boy or woman, but to strike another brave or chief generally meant a feud or civil war. Differences between tribesmen were settled by those directly concerned or by the relatives of the slain party. Of course, the law of an eye for an eye prevailed, but generally the heart of the offended party could be softened by judicious gifts. Generally the chiefs could make the men behave while they were in their presence and most men followed the admonition of their elders and leaders as a matter of course.

595 Polygamy was common, but before the advent of the white race
684 and its demoralizing influence on the savages the chastity of Comanche women rated high. During the period of Anglo-American relations it was not uncommon for a woman to run away from her husband in company with a spouse more to her liking. Traditional Comanche law provided that in such cases the offended husband might punish the woman by cutting off her nose, but this horrible practice was not always followed. In at least some cases the husband took back his erring spouse and rejoiced in his good fortune at being able to recover her.

221 For sustenance the Comanches depended almost entirely on game,
224 particularly the buffalo. These animals were generally hunted on horseback and brought down with the lance or shot with arrows at close range. Dependable authorities state that at times the Indians would drive the arrows completely through the carcass of the animal.[16] The natural tendency was for the bands to follow the buffaloes in their northward and southward migration, which practice made a sedentary existence impossible. At certain seasons, when the animals were fat, the hunt became a tribal affair and the slaughter of the great beasts took the shape of a cooperative

15. It is Mooney's opinion that the authority of the Kiowa chiefs suffered a sharp decline as a result of the advent of the white race and it is likely that the same thing occurred among the Comanches. See the Kiowa Indian Calendar, as cited, 238.

16. See Marcy, Exploration of Red River, as cited, 98.

21: Burnet T-5 (1818-1819) 1954 NO6 Comanche NO6
Texas

[ca. 1818]

auxiliary to an otherwise impotent authority. The pains and penalties of their criminal laws, are confined almost exclusively to the weaker sex. The incontinence of a wife, is punished by cutting off her nose. This odious abscission is made from the junction of the cartilage and bond, obliquely down to the lip. Several instances of this shocking penal infliction are now extant. But the sentence of mutilation is sometimes remitted in consequence of the interposition of male connections. The decisions of the law always yield to a determined resistance.

If one man wantonly kills another, the nearest friend of the deceased, is permitted, and indeed it devolves upon him as a duty, to revenge his death, by taking the life of the murderer. But the price of blood, may be commuted for articles of more value and convenience than blood, and murder may be atoned for, and the spirit of revenge appeased by liberal donations to the living relatives of the deceased. Such atrocities however, seldom occur. Notwithstanding the extreme laxity of their whole economy of government, and their entire exemption from legal restraint, they live together with a degree of harmony that would do credit to the most refined and best organized societies. The little bickerings and jealousies and inordinate strivings for thrift and distinction, that disquiet and mar the social circles of refinement, are unknown to the rude and simple children of nature.

The Comanchee system of religion is about as perfect and luminous as that of their jurisprudence. They believe in a Supreme Being, and in a future state of existence, but have adopted no mode or manner of worship. Indeed they consider the Supreme Being, to be so far removed from them as not to wish to interfere directly, in their temporal concerns, and as equally unwilling to be interfered with. They therefore leave him to enjoy his repose without molestation, and expect the same indulgence for themselves. They have no idea of a special superintending Providence, or that the Great Spirit takes any particular cognizance of the actions of men. And they consequently defer all their devotional concerns, if indeed they entertain any, to a dark futurity,

24: Richardson H-4 (no date) 1929 NO6 Comanche NO6
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dolph B. Marcy of the United States Army, and Robert S. Neighbors, representing the Indian Department, were appointed to locate and survey the reservations and, after an extensive reconnaissance two tracts, one of four leagues on the Clear Fork of the Brazos and the other of eight leagues on the main Brazos were located. The site of the Clear Fork or Comanche reservation is on the line of Shackelford and Throckmorton counties and that of the Brazos reservation, used by the sedentary tribes, is in Young county.

Thus did the Indian Department prepare to confine more than a thousand nomadic savages on a reserve of a little more than eighteen thousand acres. Today this land is the home of a few stock farmers and ranchmen and probably not as many as fifty people live on it. Compared with the vast stretches the Comanches has considered as their home this was indeed a parsimonious grant; but the state contended that the Indian problem should be entirely a Federal burden, the cession was regarded as a gift, and Texas was not in a liberal humor. Yet, since the cardinal idea underlying the reservation system was not simply to feed and care for the Indians but to teach them to become self sustaining, it is strange that the Federal Government undertook the project at such an obvious disadvantage. It was to be expected that a nomadic people would take more interest in stock-raising than in farming; but herds could not be maintained on so small a tract and white men soon came and laid claim to the adjoining range. Furthermore, only a small part of the reservation lands were arable. Naturally the wild Comanches were loathe to accept such a cramped environment.

However, some of the Indians were in such desperate straits that they awaited with eagerness the establishing of the reservation. Chief Ka-tem-e-see went far out into the prairies to meet Marcy and Neighbors on their return from the reconnaissance in order to assure them that his followers were ready and anxious to occupy the home they were expecting. Also, it may be observed in passing, that the chief was not at all reticent in talking Comanche politics and describing the different factions that prevailed among the Penatekas (Honey-eaters), or Southern Comanche bands. But soon Chief Sanaco appeared before the commission to inform them

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657 643 643 178 619 657 578 181 178 [657] that Ka-tem-e-see was an imposter and that he, Sanaco, was the real head of the Comanches.[4] Years of warfare with white men and savages and the struggle for existence incident to this confusion had demoralized the savages and weakened their tribal organization. There was not, in fact, any head chief and there had not been for several years. But these jealousies added substantially to the many difficulties the United States was destined to encounter in its efforts to point these people towards peace and civilization. Pride and independence were virtues these Indians no longer could boast of. Even Ka-tem-e-see begged of the commission corn and meat from their private stock of goods.

657 [162] When Agent Neighbors returned in November, 1854, to establish the reservation, he found on the Clear Fork large parties of Wacoes, Caddoes, Tawakonies and other smaller bands together with "the whole Southern band" of Comanches, the number of the latter being, according to his estimate, between one thousand and twelve hundred souls. Another council was held and the Indians urged that the Government hurry the preparations for the reservation since they were in a starving condition.[5] But notwithstanding the general eagerness on the part of the Indians about 657 648 two-thirds of them were not located on the reservation at the time and perhaps half of them never accepted life there because of an unfortunate circumstance which must be charged largely to a blunder of the United States military forces. While some of chief 648 439 Sanaco's people were at Fort Chadburne, about sixty miles to the southwest, on a friendly trading expedition, they were told by a certain Leyendecker, an Indian trader, that the white people were 648 making plans to attack them and kill them all. "If you want anything more," said Leyendecker to the Indians, "trade quickly, mount your horses, go to Sanaco's camp, and tell him the white people are collecting together to kill him and his people, I see it on this paper; tell him if he wishes to live to go north as quickly as possible—do not eat, sleep or rest, until you give him this talk from his friend."[6]

[113] 4. R. B. Marcy, Thirty Years of Army Life On the Border, (New York, 1866) p. 204. See also W. B. Parker, Notes Taken Through Unexplored Texas, 1854 (Philadelphia, 1856) p. 180.

[113] 5. Neighbors to Manypenny, Commissioner of Indians Affairs, January 8, 1855. Ms. University of Texas, photostat copy.

[113] 6. Hill to Neighbors, August 31, 1855, gives an account of these happenings of January preceding. Thirty-fourth Congress, First Session, Sen. Doc. No. 1, Part 1, 862.

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pede. If Neighbor's estimate of a thousand or twelve hundred souls be accepted as the approximate population of the Southern Comanches, it is evident that not more than a fourth of these Indians were at the reservation when it was established. The two most influential chiefs, Buffalo Hump, a chronic disturber, and Sanaco, destined to become quite as great a rogue, were still at large. Other Indians came in at different times, so that on one occasion there were 557 souls; but 350 or 400 would represent a fair average for the whole period.[9] Evidently many Indians came and left very much at will, in spite of the efforts of the agents to hold them.

It would have been much better if the renegades had stayed away altogether, for their chiefs were jealous of Ka-tem-e-see and frequently connived to supersede him. During the winter of 1855-1856, Sanaco came in, gave up some horses his people had stolen in the country west of San Antonio, and returned to the prairies to bring in his band. He brought in his people according to promise, but soon left because as he alleged, troops were arriving at Camp Cooper and he felt that this would mean that his braves could get whiskey. However, he must have known that his men could get whiskey while running at large even more easily than at the reservation. A more plausible reason for his leaving is that given by the agent, John R. Baylor, namely, that he found he could not supersede his rival, Ka-tem-e-see. His band became even more lawless and was charged with a number of robberies and murders. Once, in jocular mood, the chief sent word by an Indian runner that he would bring his people in if Major Neighbors would furnish him and his people with all the whiskey they could drink. And they would stay, he said, as long as the whiskey lasted!

Buffalo Hump was even more troublesome than Sanaco. He would come in and make many promises stating that he had reformed and was determined to live the life of a good, honest Indian henceforth. But, if the spirit was willing the flesh was weak in the case of Buffalo Hump; and as soon as the agent had made him presents in consideration for his profession of good intentions he would steal away to the prairies to plunder and rob and live

9. The different reports of the agents show numbers as follows: January 1, 1854, 490; September 8, 1856, 557; September, 1857, 424; January 17, 1858, 381; September 16, 1858, 371; October 30, 1858, 341; July, 1859, 382.

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657 army advised him that if he felt insecure he could move the agency to a point nearer the new site. Thus for a while no troops were stationed nearer than eight miles from the agency. Now, when the troops moved out of Old Camp Cooper the Indians moved in and stored their grain and hay there. But soon a detachment of troops was ordered back to the old post and the Indians had to move out.[17] It seems that thereafter some troops were stationed continuously at the old post, but later the agent complained that the force consisted of but fifteen or twenty men—not enough to be of much aid in an emergency. During the crisis in June, 1859, when the frontier citizens were threatening to attack the reservation, an adequate cavalry force was stationed there and maintained until the Indians were removed.[18] However, it must be said that during much of the four years of the reservation's history the United States Army did not give the protection which even its limited means might have permitted.

Problems of the Agents

The vexations incident to controlling, teaching and starting on the road towards a civilized existence several hundred nomadic savages just taken from the prairies and confined to a reservation of a few square miles were too numerous to be adequately described. Sometimes the conduct and practices of the savages were enough to have exhausted the patience of a saint and that they were dealt with so successfully is a credit to the white men in charge.

578 Savage lawlessness and lack of self restraint naturally provoked clashes between individuals of a tribe where freedom of action had so recently been limited by this new environment. In a [627] fit of anger one of the head men stabbed his wife and her brothers vowed to avenge her wrong. The husband's friends came to his 657 side and a general fight seemed dangerously near. But, much to the surprise and relief of the agent, the guilty Indian came to him in a penitent mood and offered to receive any punishment that [683] might be imposed. The agent left the matter to the other chiefs and quite naturally nothing was done. The woman recovered and [627] her brothers apparently became reconciled.[19]

[113] 17. T. T. Hawkins, special agent to investigate conditions on the reservation, to Charles E. Mix, October 30, 1858. Ms. University of Texas photostat copy.
[113] 18. Neighbors to Greenwood, June 10, 1859. Thirty-sixth Congress, First Session, Sen. Exec. Doc. No. 7, p. 636.
[113] 19. Baylor to Neighbors, June 8, 1856. Ms. University of Texas photostat copy.

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164 The health of the Indians was not always good. Venereal
657 diseases were virulent and common and there was not sufficient medicines and doctors. Typhoid pneumonia is mentioned among the diseases reported by the doctor who occasionally attended the patients.[20]

241 The reservation farmer had his troubles also. The Indians would turn their horses into the corn field, or turn them loose where it was evident that they would get in the field. They would pull melons no larger than an egg and were want to consume all
241 their corn before it had grown to good roasting-ears. In the spring
657 of the second year they refused for some time to plant their crops until they had been given presents, but finally the agent persuaded them to go to work without the presents.

578 Sometimes there was violence unto death. A chief engaged
684 in intrigue with another man's wife and, according to custom, the injured man demanded that the chief compensate him to the amount of a horse. When the chief refused or hesitated to do this he was
696 slain at once by the sons of the injured man. Then the father and his sons together with their women and children fled from the reservation and were not overtaken. although a scouting party followed them for a hundred and fifty miles.[21]

177 And yet, notwithstanding these evidences of savage crudeness, it must be said that at least some of the Indians were making
177 progress toward a more civilized existence. Under the direction
241 of the reservation farmer they worked and occasionally made fairly
657 good crops, but the amount of land in cultivation was small. In 1857, they made but fifty bushels of wheat off of the twenty acres sown and 500 bushels of corn was produced on the remainder of
[567] their land in cultivation. For awhile the Indians were prone to rely too much on their prisoners to do the work but after these were freed and returned to their people in Mexico that abuse was corrected. In 1858, the reserve farmer reported a better yield. In the spring of that year he had divided the community fields into six divisions in order that each of the prominent clans might have
[231] a parcel of ground suited to its numbers. He thought that they would have made enough grain (principally corn) that year to

[113] 20. J. Shirley, bill for medical services, March 29, 1858. Ms. University of
[113] Texas photostat copy. Neighbors to Manypenny, March 7, 1856. Ibid.
21. Leeper to Neighbors, April 9, 1858, Ibid.

29: Hoebel E-4,5 (1933) 1969 N06 Comanche N06

ambiguity of powers of the chieftains, it is not surprising that in this tribe there were no public officials endowed with law-speaking or law-enforcing authority. The law of the Comanche was neither legislative nor judge-made. It was, as we have written elsewhere, "hammered out on the hard anvil of individual cases by claimant and defendant pressing the issues in terms of Comanche notions of individual rights and tribal standards of right conduct."[3] Thus it was almost exclusively a system of private law: a system of individual responsibility and individual action; a law that was case made.

The Comanches surely had no love of legalistic formalism, but they were a most litigious people. Their way of life engendered considerable internal friction. It might almost be said that the Comanches savored trouble-making. Their own accounts of their war parties as often as not begin with a laconic "once there was a bunch of Comanches out looking for trouble."

So, also, a man was often moved to take steps that made trouble. He stole another man's wife, or he secretly consorted with her. When this was done, the husband had no choice but to initiate legal action. Magnanimity on his part would bring no praise, for there was no doctrine of turning the other cheek. A man's status turned on his bravery, and for an offended husband not to act reflected merely on his courage; it was seen not as an act of forgiveness but as an expression of lily-livered cowardice. Wife-stealing and adultery were not the result of any sexual deprivation on the part of the offender; they were in effect deliberate challenges to the prestige of the husband. As such, he was forced in the eyes of the people to respond to them.

The way was open to him in legal action. Custom impelled men to violate the marital rights of other men. The culture also provided a legal remedy for the wronged man. Except in a few rare and extreme cases, the wrongdoer fully expected to pay the legal price—and did so without forcing the injured husband to a violent bodily attack. He knew well that he would have to pay a price, but he also knew that if he was steadfast and could outface the other man, the price would be light. In that case he would come out of the affair with greater public respect than the husband and he might get the woman to boot. So he took the risk.

In the memory of a dozen old Comanche informants still living in 1933 forty-five cases of old-time legal actions involving wife-stealing and adultery were still vivid enough for detailed recording.[4] Twenty-two were wife-absconding cases and twenty-three involved adultery.

As it takes two to make a contract it also takes two to commit adultery or a wife-absconding (Comanche women were not forcibly stolen). The woman's role in these affairs was very frequently an expression of individual revolt against the workings of Postulate III.[A] Theoretically in all instances,

[3] Wallace and Hoebel, p. 224.

[4] Cf. Hoebel, *Political Organization and Law-ways*, pp. 49–59.

A [see category 181, p. 69--Analyst]

29: Hoebel E-4,5 (1933) 1969 N06 Comanche N06

682 It was an absolute privilege-right, which not even her family would move [593] to challenge.

On the other hand, for one Comanche male to kill another was never 682 a privilege-right, even when applying force to an over-stubborn defendant. 627 Any willful killing required a revenge killing of the slayer. Here was the fatal weakness of Comanche law, as indeed of so much primitive law. The culture provided right ways of procedure and defined the substance of 602 tortious acts. But the primacy of the kin group came to the fore whenever 682 a prosecutor felt he had pushed negotiation as far as it would carry and 627 then had taken recourse to arms. The kin of the defendant whom he had killed did not accept the killing, although general public opinion may have held that the victim had it coming to him. The Comanche kinsmen took revenge on the prosecutor regardless of the rightness of his original grievance. In enforcing the law he lost his life, a victim of *lex talionis*.

However much Comanche law fell short in this respect, custom [578] remedied the defect in another. Blood-revenge killing was only of the first killer and retaliation did not lead to feud. The kinship principle, while extant, was nevertheless weak among the Comanches, and general fighting within the tribe was not to be countenanced when there were always outside enemies to be confronted. The killer, and the killer alone, had to die. There it stopped. No religious sanction, no tribal authority, was necessary to suppress the feuding tendency. Custom was sufficient restraint, and in this the Comanches were fortunate, for thereby they escaped the self-renewing curse that plagues so many primitive law systems.

Willful killing of a man's favorite horse was an act akin to murder, 685 especially if the horse had been bequeathed to him by a best friend. Re- 627 taliation was taken not in killing the favorite horse of the transgressor but [825] in slaying the transgressor himself. A favorite horse had a legal personality and was equated with a human being. Consequently, no further blood revenge followed, for things were already equal: a man for a horse.

787 Every Comanche male at one time or another went on a vision quest in search of power. He did not abase himself before the supernatural spirits or masochistically mutilate and torture himself to arouse their compassion. 776 Nor did he weep before them to arouse their pity. Unlike the tribesmen 787 of the Plains to the north, he assumed that the spirits were generally benign toward him; they needed no coaxing to share the benefits of their power with him. If he fasted and waited in a lonely place, they would help him. 776 Nor did they interfere in his daily living except as they put conditions on the use of the power they gave him. A Comanche had to observe no super- 784 natural tabus save those that went with his own personal medicine. Under 756 Postulate VIII, most Comanche medicine men used their powers to help 789 the people. They cured and used their medicine to bring success in war and the hunt. They even, for a contractual consideration, helped others

A [See category 181, p. 69--Analyst]

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175 man, if he was fortunate, could become a peace chief, but a peace chief possessed
178 no real authority and functioned most importantly as a mediator in the disputes
624 which arose among the younger men.

175 With the greater food supply offered by the seemingly boundless bison
178 herds, hunting magic decreased in importance. Antelope magic did persist from
224 the Shoshone heritage. The more favorable living conditions and constant food
[789] supply also allowed the individual bands, which had retained their Basin character-
621 istics, to become larger and to achieve a greater degree of independence from their
222 sister bands. The emphasis on the buffalo as a food source also tended to decrease the importance of gathering and exploitation of the floral environment for food. Further, the Comanches made little or no use of fish and of such small game as rabbits (Lowie 1954:6).

175 The Basin Shoshone practice of infanticide disappeared as the family group
178 could more efficiently care for its offspring. The practice of enculturating slaves
[847] and captives became common among the Comanches in order to augment their
727 numbers and specifically to free males for hunting and warfare. The stress on
562 war and hunting also tended to debase the position of women, and such practices
593 as the mutilation of wives, a custom which had never occurred in Basin Shoshone
304 culture, came into practice.

Patterns of religious belief and behavior also underwent certain changes
175 from Basin life to the Plains. A vaguely defined belief in a Great Spirit persisted,
178 as did the relative lack of concern with the afterlife. However, the intense fear of
771 ghosts held by the Basin Shoshone diminished in the Comanche Plains culture.
776 Also, the practice of power transmission from individual to individual, instead
775 of power source to individual, developed in importance. The decrease in ghost
778 fear and, it is assumed, witchcraft in Comanche culture, as opposed to the Basin
795 culture, was greatly facilitated by the lessening of intrasocial tensions and the
578 Comanches' ability, through warfare, to turn aggressions outward and away from
721 the primary group. As a whole, Comanche religious patterns were exceedingly
796 simple and lacking in elaborate ceremonialism and ritual, at least compared to their Plains neighbors (Hoebel 1940:83).

175 The Comanches possessed characteristics, other than their paucity of
171 ceremonialism, which served to differentiate them from other Plains tribes. The
621 Comanche bands were more self-managing than bands found among other Plains
579 groups. Warrior societies, a diagnostic trait of Plains culture, were lacking in
796 Comanche society except in the most rudimentary form. The Sun Dance was not
291 a vital aspect of Comanche culture. Decoration of clothing with beads, quills, and ornaments of bone, shell, and metal was deemphasized, while heavy fringing
342 of the garments was the rule. The Comanche tepee was built on a four-pole base like that of the Blackfoot, Sarsi, Ute, and Shoshone; while the Comanches' historic neighbors, such as the Kiowa, Cheyenne, Arapaho, and Kiowa-Apache used a three-pole foundation (Lowie 1954:33).

72 By the early nineteenth century the bison herds were greatly diminished
224 on the south Plains, and the Comanches increasingly turned to raiding to augment their economy. During this period the Comanches raided New Mexico, the Santa Fe Trail, northern Texas, and Old Mexico, sometimes as far south as Durango.

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With regard to Sanapia's niece's child, Sanapia said that she knew who had witched the girl but did not tell the mother for fear of frightening her. Sanapia does not suggest that any supernatural talents are involved in the ability to identify the witch. Since Sanapia believes that witchcraft can only be operated by those with a high degree of *puha*, the field of possibilities is immediately narrowed. She evaluates the community in which the witch's victim lives and, through a process of elimination, selects the witch. She does not make her choice known for fear of frightening the victim or his parents, as has been mentioned, and also because she feels that if her accusations are made public, it would only cause further dissension among the Comanche people. She feels that there is enough tension among the Comanches without adding accusations of witchcraft.

The Contemporary Situation

This chapter has dealt with Sanapia's treatment of a victim who has been witched by the magical insertion of the malevolent essence of an eagle plume. Sanapia doctors also among the Wind River Shoshone, southern Cheyenne, southern and northern Arapaho, Kiowa, Kiowa-Apache, Ponca, Creek, and Fort Sill Apache, as well as the Comanche; and thus she has confronted cases of witchcraft other than the variety which has been described in this chapter. Her general approach to a cure, however, is similar in all cases. She feels that the body of the victim has been put out of balance by some tangible or intangible entity; therefore, to correct the abnormal condition, she works to remove that which is causing this physiological disequilibrium.

Given the antagonistic feelings beween the northern and southern Comanches and the fact that patterns of witchcraft exist, it would seem that there would be a high rate of intergroup witchcraft, at least being directed by the northerners. This does not appear to be the case, a maior reason being that the southerners generally do not respond. They consider witches and witchcraft merely superstitious beliefs, or, at best, nonexistent in modern times. A further possible explanation of this lack of intergroup witchcraft is the special distribution of the Comanche bands—the more traditionally oriented bands cluster in the north and northwest of the Comanche area while the more fully acculturated band members are found in the south and southwest. There may be as many as 40 miles separating members of these two groups. Therefore, there is no necessity for daily social interaction between members of the opposing "tribes," which could reduce the generalized hostilities to more intense and socially unsettling personal conflict, thus better facilitating the desire and the opportunity for the execution of witchcraft.

Witchcraft among contemporary Comanches is mainly intergenerational. Older men and women, feeling their life power fading, turn to malevolent magic in an attempt to augment their failing social prestige and to defend themselves against the more vital younger generation. The few cases of witchcraft which I was able to investigate among the Comanches followed this general pattern of essentially intergenerational jealousy and tension. This was also the basic

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578 754 561 rationale for witchcraft, especially between males, in the nomadic Comanche culture. In a society which emphasized physical prowess, the old and enfeebled were at a definite disadvantage. The older men could not join the younger in the 754 prestigeful activities of war, sexual adventuring, and hunting, and they were 561 therefore forced to turn to magic and supernatural means if they desired to con- 554 tinue their futile attempts to compete for social power and prestige with the 558 younger men of the tribe. Since Comanche culture was not oriented to allow an 578 individual to acquire prestige and position through material acquisition alone, this avenue was also denied the older men.

Factors in the Decline of Witchcraft

754 178 561 556 578 Perhaps a factor contributing to the lessening incidences of witchcraft, noted by Sanapia even in her own time, can be attributed to the fact that in the postreservation period the older men of the tribe were able to acquire a certain economic power through such channels as land allotments and welfare, while at the same time the younger men were being denied their main traditional avenue to prestige—war. Thus a more tolerable balance developed between the prestige and social power levels of the young and the old. The woman, whose social position rose and fell with the male to whom she was attached, also acquired the benefits of this postreservation phenomenon. A woman could own land like a male, and with older women this became an attraction to the younger men, men perhaps born too late to take full advantage of the land allotments. Therefore, an older and economically more powerful woman could more successfuly compete with a younger woman for available males.

754 178 561 844 578 However, neither economic power nor supernatural methods can cause a woman to produce offspring after she has reached a certain advanced age. In a moment of anger or spite, a young Comanche woman's invectives directed toward an old woman will inevitably include a caustic reminder to the older woman of her "uselessness" as a woman. Sanapia and many of my female Comanche informants mentioned the potential dangers which a young woman exposes herself and her children to when she flaunts her offspring in front of an older woman whose children have left her. This, in Sanapia's opinion, is the reason for the high degree of witched infants and why Sanapia immediately accuses an old woman for the act of witchcraft.

754 178 571 361 Several other factors can be suggested as relevant to the decline of Comanche witchcraft. With the allotment of lands the various family units within the same band became more isloated and thus any possibility of an act which could motivate an individual to operate witchcraft against another member of that band became lessened as relatively forced social proximity, as was the case in the reservation period, became lessened among band members.

754 178 887 888 As the band's economic function was destroyed, the individual family units were compelled to become more independent. Thus, the older members of the Comanche extended families were necessarily allotted tasks as more jobs had to be handled by a smaller number of individuals. In this manner the older people

32: Gilles O,X-3 (1902-c.1910) .1974
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The women and girls rode in the wagon or hack, but the men and boys would be mounted on their finest horses. Their saddles and bridles would be polished, and each would be carrying a gaudy quirt. I got the impression that when the men and boys were put on parade like this, they belonged to the whole family of women and girls. At least, they would all be equally puffed up with pride; It wouldn't have done to have pricked any one of them with a needle.

I grew up in a society where we all had Sunday clothes put away for special occasions. But this Comanche custom of dolling up the men and boys carried a greater significance for them. It was of a ritualistic nature.

To sum up: contrary to the impression of inner family turmoil I had received from the accounts in the *Star* and the *Journal* of the workings of polygamy, the Comanche made it work. As far as the older Comanches were concerned, it had been and was an ideal arrangement.

To all appearances, everyone involved in the multiple wife setup—the husband, the wives, the children—was quite happy with it. I never observed a quarrel between wives. I never saw one wife mistreat another. Nor did I ever observe a display of jealousy in relation to either husband or child.